

Real Lawyer's View

PARTISAN JUDGE PAYNTER

Lambasting Kentucky's Eminent Accidental Official.

FLOCKS OFF ALL BY HIS OWN SELF!

Lexington Morning Herald.

Chief Justice Paynter, not content with concurring in the elaborate and really able dissenting opinion of Judge Hobson, files a separate dissenting opinion—as he has the undoubted right to do. It is one of the inalienable rights of an outvoted Judge to dissent—to dissent in group or separately all to himself. He closes this separate opinion in these words:

"The opinion delivered in this case is an unfortunate one and far reaching in its consequences and effect. It unsettles the law which had been settled in the state by numerous decisions ranging over a period of fifty years, and it is in disregard of the interpretation which every branch of the Government has given the Constitution for that period. It is revolutionary in character. It is such opinions as this that bring reproach upon the courts."

How far a dissenting Judge can go in criticism of the decision of this Court is greatly a matter of taste, and *de gustibus non est disputandum* applies to Chief Justices as well as to laymen and common folks. But if the Chief Justice is within the limits of professional etiquette in declaring that a decision of the Court of Appeals, of which he is the chief, is "unfortunate," revolutionary in character and brings reproach upon the Court, how far can a layman go in criticizing opinions rendered by the Courts of the Commonwealth? We recall that when former decisions were rendered by a majority of four to three and criticisms were suggested concerning political judgments such criticisms were denounced as unwarranted attacks upon the Courts, as savoring of contempt of Court, as exhibitions of blind partisan prejudice, as evidence of a spirit of anarchy and lawlessness. Now that the majority is the other way the Chief Justice gives the signal and waves the baton of the leader of the band of what is to be the substance of attack upon the majority.

Let it be understood that we are not condemning the Chief Justice, for we believe in frank and candid criticism of the conduct of all Courts and of respectful analysis of all opinions. It is the duty of every citizen to treat all Courts of Justice with respect, to remember that they represent the majesty of the law and the dignity of justice, and ought not to be lightly criticised. But no Court, no official in a free country is above criticism; no official action is beyond challenge. And during the past five years we have felt called as a matter of public duty to call the attention of our readers to various decisions of the Appellate Court and the conduct of certain inferior Courts, and to point out the errors as we believed and the dangerous conduct. Sometimes we have gone further than criticism and ventured with frank, and, we trust, not undeserved censure.

And our first impulse on reading the sentences in the dissenting opinion of the Chief Justice was to hold out our hand and say—"How are you, pard?" You write as if you had been an attentive reader of *The Morning Herald*—for we have a vague remembrance that in *The Herald* the judgment was expressed that certain opinions rendered by that Court were unfortunate, revolutionary and were calculated to bring reproach upon that Court. Our readers must not suppose that we intimate that the Chief Justice has plagiarized from *The Herald*—but only that the habitual and studious reading of good writing gives elegance and force to one's style.

We agree with Judge Hobson that the history of the political decisions rendered by that Court is not reassuring, is not pleasant, is not complimentary to the Court. He points out that in the appeals which he calls political the Court divided on political lines. He is too just a man to lay the blame of this division on any particular Judge or group of Judges. The Democratic Judges and the Republican Judges

alike thus acted—except perhaps in one noted case when there was not such complete division, and that was not when any Democratic Judge found himself deciding against what his party wanted. But this may be because the Democratic party never wanted anything except the law—was always right and always on the right side. We have deplored this partisan division as we have frequently announced, and have often hoped that on some of these exciting questions there would not be this unfortunate division. But lawyers and politicians are not translated into saints by being transferred from the Bar to the Bench. They remain the same men, the same partisans, the same politicians they were before their election and promotion. This is true even under the Federal system where the Judge is appointed and that for life. In the Electoral Commission the Justices of the Supreme Court divided according to political affiliations precisely as the Senators and Representatives. Indeed the report at the time was that these Justices were more intensely partisan than the laymen on that Commission.

We believed the decision of the Court of Appeals upholding the Prison Commission Law was "revolutionary" and would be extremely dangerous; that it overturned our form of Government and violated the very first fundamental provisions of our Constitution. It was a miserable partisan law in some respects. A proper Prison Commission might be made very efficacious and it was not against putting our Penitentiaries and Prisons and public charities under a State Board that we opposed—but it was conferring upon the Legislature the executive function of electing the Commissioners—by which the precedent was made that the Legislature could create offices not named or created in or by the Constitution and fill these offices by its election. The opinion was wholly unsatisfactory—nay, it was conclusive against the law.

The Goebel Law was framed under the principles announced in that "unfortunate" and "revolutionary" opinion, and all of these sad opinions which were calculated "to bring reproach upon the Court" have been based on that "revolutionary" opinion.

This late judgment is the return of the Court to the former rulings—to the true construction of the Constitution and to the fundamental principle that Kentucky has a Government in which the three departments—Executive, Judicial and Legislative—are separate and independent, and the Legislature cannot usurp the powers and functions of the other departments.

The many friends of the Hon. LESLIE COMBS, United States Pension Agent at Louisville, will be glad to know that he has been removed from Norton Infirmary to his home, where he is rapidly recovering from the injury to his knee cap, sustained by a fall in Washington a week or so since.

WOMEN AND JEWELS.
Jewels, costly, flowers, man—that is the order of a woman's preferences. Jewels form a magnet of mighty power to the average woman. Even that greatest of all jewels, health, is often ruined in the strenuous efforts to make or save the money to purchase them. If a woman will risk her health to get a coveted gem, then let her fortify herself against the insidious consequences of cough, colds and bronchial affections by the regular use of Dr. Boecher's German Syrup. It will promptly arrest consumption in its early stages and heal the affected lungs and bronchial tubes and drive the dread disease from the system. It is not a cure-all, but it is a certain cure for coughs, colds and all bronchial troubles. You can get Dr. G. C. Green's reliable remedies at J. Jas. Wood & Son's. Get Green's special Attention.

How Are Your Kidneys?
Dr. Hobbs' Stomach Pills cure all kidney ills. Sample free. Add: Sterling Remedy Co., Chicago or N. Y.



Dizziness and headaches cannot be cured in any other manner than by getting at the root of the trouble and curing the cause. The cause is almost invariably a disordered digestive system, or else a bad stomach and clogged bowels are responsible. Laxakola, the great Tonic Laxative, is an unfailing cure. It works gently and painlessly and at the same time acts as a tonic to the bowels, stomach, liver and kidneys and builds up the system instead of weakening and irritating it as other laxatives do. Its remarkable properties reach every organ—the liver, kidneys and stomach, nerve, heart and brain—and removes the cause of your debilitated condition. This is the only way to secure an absolute and permanent cure. Laxakola is the only medicine for babies, is purely vegetable and its action is gentle, speedy and effective. For coated tongue, simple fevers, colds, chills and languid feeling it is the ideal medicine. It tastes good. *Children like it and ask for it.*

LAXAKOLA FOR WOMEN.
It is a gentle and safe remedy to use during all conditions of health of the gentler sex whenever their peculiar and delicate constitutions require a mild and efficient laxative and tonic, and is invaluable in assisting to relieve obstructions which otherwise would lead to more or less severe pain or illness. It improves the complexion, brightens the eyes, sharpens the appetite, quickens the circulation, removes muddy and blotched condition of the skin and cures sick headache. It is certain by removing the cause. To women suffering from chronic constipation, headaches, biliousness, dizziness, sallowness of the skin and dyspepsia, Laxakola will invariably bring relief. At druggists, etc., and for a free sample to THE LAXAKOLA CO., 125 Nassau Street, N. Y., or 355 Dearborn Street, Chicago.

We have an idea that our friends of the Republican press will attempt to show that the dissenting opinion of Justices PAYNTER, HOBSON and WHITE, Democrats, in the Breckinridge-Pratt decision, is partisan, and the opinion of Justices GUFFY, DURELLE, BURNAM and O'REAR, Republicans, is non-partisan.—*Cynthiana Democrat.*

Nay, nay, beloved! But, if space permitted, and the game was worth the wadding, the Republican press might republish some of the Democratic praises heaped upon Judges PRYOR, PAYNTER, HOBSON and WHITE—"we four and no more"—when they decided all the Goebel cases in favor of the Goebelites. Those decisions were purely non-partisan, of course,—at least from the Democratic standpoint.

HERE is a dispatch that's interesting—if not important:

CLAIM GOEBEL REWARD.
FRANKFORT, Ky., Nov. 25.—Detectives ARMSTRONG and HARDING of Louisville, who spent several months during 1900 here at work on the Goebel murder case, are preparing to file a claim for the \$1,000 reward offered by the Fiscal Court for the apprehension of the murderers. The detectives claim that they secured the information on which YOUTSEY, POWERS and HOWARD were convicted. The claim will be resisted.

Well, b'gosh! What does this mean, anyhow? The able detectives claim that they "landed" the murderers of GOEBEL, and CAMPBELL and CANTRILL claim that they have "convicted" at least three of the criminals—at \$5,000 per convict.

Now comes the Franklin County Fiscal Court resisting the claim of the captors, after solemnly offering \$1,000 for the captives.

Does this mean that the Fiscal Court intends to set up the claim that the murderers have not been arrested, and that, consequently, POWERS, YOUTSEY and HOWARD did not commit the deed?

The deeper one digs into this Goebel business the more mysterious it becomes.

For Fur Scarfs and Boas, go to Mrs. L. V. Davis.

FAIR EXCHANGE.
A New Back For an Old One. How It Is Done in Maysville.

The back aches at times with a dull, indescribable feeling making you weary and restless; shooting pain shoots across the region of the kidneys, and again the loins are so lame to stoop is agony. No use to rub or apply a plaster to the back in this condition. You cannot reach the cause. Exchange the bad back for a new and stronger one. Follow the example of this Maysville citizen.

Mr. Frank Burgoyne of 331 East Third street says: "Greater praise cannot be given Doan's Kidney Pills than their wonderful merit deserves. I procured them at J. Jas. Wood & Son's Drugstore, corner of West Second and Market streets. The use of this remarkable remedy demonstrated beyond question that if taken properly a cure surely will follow."

For sale by all dealers; price 50 cents a box. **FOSTER-MILBURN CO.,** Buffalo, N. Y., Sole Agents for the United States. Remember the name—DOAN'S—and take no substitute.

THE LIFE SAVERS.

The Smallest Loss From Documented Vessels Suffering Disaster For Some Years.

SUPERINTENDENT MAKES A REPORT

The Cost of Maintaining the Service During the Past Year Was Only \$1,640,013.74.

The General Superintendent Recommends That the Salary of District Superintendents Be Raised to \$2,500 a Year.

Washington, Nov. 27.—The annual report of the general superintendent of the life saving service for the year 1901 shows the smallest loss of life from documented vessels suffering disaster since general extension of the service, and also with respect to vessels of all classes, including the undocumented, with the exception of the years 1830, 1882, 1885 and 1888. The average number of lives lost annually during the entire period, 25 years, was 37, one life having been lost in every 13 casualties, while the number lost during the past year was 17, or one in every 43 casualties. From documented vessels alone the number of lost was only 7—1 to every 51 casualties. The number of casualties to documented vessels was 377. There were on board these vessels 2,849 persons. The estimate value of the vessels involved in disaster was \$5,263,420, and of their cargoes \$2,090,580. Of this amount \$6,403,035 were saved and \$948,965 lost. The number of vessels totally lost was 43.

Casualties to Small Craft.
In addition to the foregoing there were during the year 393 casualties to small craft, undocumented, on board of which were 327 persons, of whom 10 were lost. The crews saved, or assisted to save, 422 vessels, valued, with their cargoes, at \$3,139,610, and rendered assistance of minor importance to 543 other vessels in distress, besides warning from danger 231 vessels. The cost of the maintenance of the service was \$1,640,013.74.

The general superintendent again urgently calls attention to the inadequate compensation of district superintendents, whom he believes to be the poorest paid officers under the government, considering the serious and exacting nature of their duties and the extent of their fiscal responsibilities. Their salaries range from \$1,500 to \$1,800 per annum, and they are required to furnish bonds ranging from \$10,000 to \$50,000 in amount. He recommends that their pay be raised to \$2,500 a year.

NEW BASE-BALL LEAGUE.
It Will Comprise Minneapolis, St. Paul, Kansas City, Omaha, Indianapolis, Milwaukee, Columbus, Toledo.

St. Joseph, Mo., Nov. 27.—President Hickey, of the Western Baseball league, in a statement issued Tuesday afternoon, states that a circuit comprising Minneapolis, St. Paul, Kansas City, and Omaha, in the west, and Milwaukee, Indianapolis, Columbus, and Toledo, in the east, has been formed. This will be distinct from the Western league as now planned, and which is to comprise Denver, St. Joseph, Colorado Springs, Sioux City, Des Moines, and probably Lincoln. President Hickey will resign from the head of the present Western league at its annual meeting next week.

Lead a Double Life.
New York, Nov. 27.—Joa. Goldman, of Brooklyn, convicted of burglary, was sentenced Tuesday to imprisonment for not less than three years ten months nor longer than five years. The trial of Goldman showed that he lived a double life and that away from business, church and family he led a band of crooks and planned their burglarious operations.

Ex-President Cleveland Convalescing.
Princeton, N. J., Nov. 27.—Ex-President Cleveland will be able to leave his room in a few days. Mrs. Cleveland Tuesday night said that Mr. Cleveland is still improving and though he is still in bed he will be able to leave his room in a few days.

Can't Assign Salaries.
Chicago, Nov. 27.—The branch appellate court, through Judge Waerman, Tuesday ruled that a policeman or other public officer can not assign his salary. The decision is based on the ground that the practice is against public interest.

Doctor Shot Druggist.
McEwen, Tenn., Nov. 27.—Dr. J. H. Arrington, postmaster, shot and instantly killed Alex. Wright, a druggist, Tuesday afternoon. The dispute arose about a prescription. Arrington claims self-defense.

Charged With Wife-Murder.
Guthrie, O. T., Nov. 27.—James M. Nix, of Shawnee, O. T., was arrested on the charge of poisoning his wife, who died suddenly last Friday. A warrant has been issued for the arrest of Mrs. Nix's sister as an accomplice.

Oil and Gas in Georgia.
Alexandria, Ga., Nov. 27.—At Pineville Tuesday a well struck oil and a considerable flow of gas at a depth of 600 feet.

Exports of coal from the United States are still increasing.

POPULAR DEMONSTRATION.

An Enthusiastic Crowd Greeted Rr. Adm. Schley on His Arrival in Philadelphia.

Philadelphia, Nov. 27.—Rr. Adm. Schley, who, with Mrs. Schley, arrived here Tuesday to remain until Wednesday as the guest of Col. A. K. McClure, was the center of an enthusiastic demonstration at the Broad street station of the Pennsylvania railroad when the Washington express rolled into the train shed. More than 1,000 persons were there to cheer the admiral when he stepped from the train, and it was with much difficulty the police opened a passage way for him to leave the station.

Tuesday night the admiral, Mrs. Schley and party occupied a box at the Chestnut Street Opera house as the guest of Sir Henry Irving. The crowd at the opera house was one of the greatest ever present in that place, hundreds of persons being turned away long before the curtain rose, it having been known that the admiral would attend the play. He was enthusiastically received.

EXTENSIVE SMUGGLING.

Treasury Department Detectives Believe They Have Unearthed a Gigantic Scheme.

Cleveland, O., Nov. 27.—Detectives from the treasury department of the United States government believe they have unearthed one of the most extensive smuggling schemes in the history of the country. They estimate that \$100,000 worth of furs have been smuggled into this country from Canada, and of this quantity about \$25,000 worth have been confiscated by the government, from some of the most fashionable people of northern Ohio.

Collector of Customs Chas. F. Leach and his deputies have charge of the work of confiscation. The victims live in Youngstown, Canton, Massillon, Cleveland and several other northern Ohio towns, but Collector Leach refused to make public their names. The furs are of the most beautiful and costly kinds. One lot recovered from Youngstown cost at least \$1,500.

ON CONDITIONS.

Gift of \$25,000 of Andrew Carnegie For a Public Library Building at Elwood, Ind., Accepted.

Elwood, Ind., Nov. 27.—The gift of \$25,000 by Andrew Carnegie for a public library building in Elwood has been accepted and the board of directors has sent a written acceptance. There is a stipulation in connection with the gift, however, that may not be pleasant to the donor. The letter of acceptance says that the site for the proposed library will be obtained, the \$2,500 pledged annually to its support according to requirements, and that the building will be known as the "Elwood Public Library." As it is customary or cities receiving such gifts to name the library after the iron magnate, it is not known how this action will be received. It is said that the name was chosen to placate some of the labor unions that are opposed to accepting money from Carnegie.

NO CAUSE FOR ALARM.

Recent Incident Between Chile and the Argentine Republic is Being Satisfactorily Arranged.

Valparaiso, Nov. 27.—It is declared here that the recent rumors of war between Chile and the Argentine republic are due to speculation in gold, exchange and stocks.

Santiago de Chile, Nov. 27, via Galveston.—The recent incident between Chile and the Argentine republic is about to be satisfactorily arranged. The Chilean authorities and ministers here of the Argentine republic will shortly sign a memorandum of agreement. There is not the slightest cause for alarm.

Exodus of Gamblers.

Muncie, Ind., Nov. 27.—The gamblers are leaving the city in droves. The moral wave which was in vogue a week ago continues, and the fight inaugurated by Chief of Police Cashmore against vice has occasioned much alarm. The crusade is the most rigid experienced here in years.

Journeyman Barbers Strike.
East Liverpool, O., Nov. 27.—All journeyman barbers of the city struck Tuesday evening, having rejected the bosses' proposition to arbitrate a wage dispute. The journeymen announce that they will attend to customers' wants by going from house to house.

Given a Tombstone.

Louisville, Ky., Nov. 27.—Mr. and Mrs. John Williams, sextons of the Baptist church, celebrated their golden wedding Tuesday. Among the gifts received was a \$50 tombstone from a marble dealer.

To Contest Will.

New York, Nov. 27.—A group of nine relatives of the late Henry Dolan, who died here in September, leaving an estate estimated in value at \$1,000,000, gave notice Tuesday of their intention to contest the will.

Erve Beck Signs With Cincinnati.
Toledo, O., Nov. 27.—It was learned Tuesday that Erve Beck had signed a contract with Cincinnati for next season, and that he is to receive \$3,000 for his work. He will play second base.

The Battleship Missouri.

Washington, Nov. 27.—The battleship Missouri will be launched at Newport News, Saturday, December 28, next.

In Diamonds

We are showing the largest stock ever shown in Maysville. Our prices are lower than you will find anywhere else.

WATCHES of the best makes and newest styles. Call and let us show you how cheap.

STERLING SILVER GOODS we are showing the greatest variety of patterns in this city. Spoons and Forks of every kind.

CUT GLASS.—We are showing a larger stock of Cut Glass than all combined dealers in this line. It is needless to say our prices are right.

Fancy China, Sterling Silver Toilet Goods, Leather Goods, Bead Bags, Umbrellas, Bronzes, in fact, everything first class. I have one of the finest Engravers in the state. No charge for engraving.

MURPHY, JEWELER!